

**METROPOLITAN NASHVILLE-DAVIDSON COUNTY
TRANSPORTATION LICENSING COMMISSION**

Minutes of

December 16, 2008

The Metropolitan Nashville-Davidson County Transportation Licensing Commission (the "Commission") met in regular session on this date at the Metropolitan Courthouse. The Commissioners present were Chair Helen Rogers, Vice Chair Duane McGray, and Commissioners Jennifer Brundige, Mary Griffin, Quenton White and Ed Whitmore (6). Also attending were Legal Advisor Jon Michael; Commission staff members Walter Lawhorn, Milton Bowling and Lisa Steelman; and Brian McQuiston, Director-Executive Secretary to the Commission.

Chair Helen Rogers called the meeting to order. She led the Pledge of Allegiance and read the Notice of Appeal statement, advising of the right to appeal decisions of the Transportation Licensing Commission.

The minutes of the October 28, 2008 meeting were approved.

WRECKER DRIVER PERMIT APPLICATIONS

David L. Jones: Mr. Jones appeared. Director McQuiston reported that Mr. Jones had been approved for a permit in 2007, noting that the new statewide background check had not been available at that time. He stated that when Mr. Jones applied to renew his permit in November 2008, his background check had revealed undisclosed convictions for Evading Arrest with Auto in 2000 and Driving on a Revoked License in 2001; both convictions were in Rutherford County. The director added that Mr. Jones was the owner of Express Auto Recyclers, a licensed general wrecker company. Responding to questions from Commissioners, Mr. Jones stated that the charges were correct. He stated that he had disclosed a 2000 arrest for DUI on his previous application, and both of the undisclosed charges stemmed from that arrest. He stated that his company had only one tow truck, and operated a salvage-related business from Rutherford County. Inspector Bowling reported that there had been no problems with the company. **Vice Chair Duane McGray** emphasized the importance of disclosure on an application, and moved to approve a permit, with a one year probation; any violations during that period would result in revocation. **Commissioner Mary Griffin** seconded, and the motion passed (5-0).

Michael D. Martin: Mr. Martin appeared with his father, Joseph Michael Martin, owner of Martin's Wrecker Service. Director McQuiston reported that Mr. Martin had received an initial wrecker driver permit in 2007, but that when he applied to renew his permit a TBI background check and a follow-up Criminal Court records check had revealed an arrest on October 22, 2008 for Possession with Intent – Marijuana – 31,697-136,050 grams, a felony charge. He added that the charge was still open. **Commissioner Mary Griffin** noted that this was between 70 and 300 pounds, and the charge would be a Class B felony.

Joseph M. Martin noted that were likely to be consequences for his son, but asked that the Commission approve a restricted temporary permit. **Vice Chair Duane McGray** noted that the charge did not indicate a casual use amount of marijuana. **Chair Helen Rogers** asked about the next hearing date. Joseph M. Martin stated that the next date was in February, but that the process could take much longer. **Vice Chair McGray** asked if there was another position in the company where Mr. Martin could be assigned; his father stated that he could not make a place for his son without letting someone else go. **Chair Rogers** and **Commissioner Ed Whitmore** expressed concern about the risks associated with granting any permit.

Mr. Martin stated that he had made a terrible mistake, which he regretted. He responded to specific questions from **Vice Chair McGray** about traffic tickets on his record.

Commissioner Griffin expressed concern that the case was likely to take well over a year to be disposed.

Vice Chair McGray moved to defer action on the application until the court disposed of the charges. **Commissioner Whitmore** seconded, and the motion passed (5-0).

Corey Wabbington: Mr. Wabbington failed to appear. Director McQuiston stated that he had been informed by Doug Williams, owner of Tow Pro, that the company would not employ Mr. Wabbington.

Ronald Arnold: Mr. Arnold did not appear.

J.R. Ferguson: Mr. Ferguson did not appear.

Commissioner Mary Griffin moved to disapprove the applications of Mr. Wabbington, Mr. Arnold, and Mr. Ferguson. **Commissioner Jennifer Brundige** seconded, and the motion passed (5-0).

WRECKER COMPANY DISCIPLINARY HEARING: DUKE'S WRECKER SERVICE

Duke's Wrecker Service owner Charles Duke, Jr. appeared. Complainant Maurice Wherry, Jr. failed to appear. Director McQuiston stated that Mr. Wherry's complaint had been received in September, alleging violations related to nonconsent towing from private property. The director stated that there had been numerous efforts to communicate with Mr. Wherry, who lived in Alabama. He added that an investigation had confirmed that the vehicle had been towed out of Davidson County, and that the company had not obtained a control number. The director stated that Duke's Wrecker Service had held a license in 2008 that permitted nonconsent towing; but because Mr. Duke no longer had a storage lot in Davidson County, the company had been issued only a general wrecker license in December. He concluded that the renewal process had effectively removed the nonconsent permission from Mr. Duke's license.

Mr. Duke stated that Mr. Wherry had picked up his vehicle on December 15.

Commissioner Jennifer Brundige moved to direct that any future application by Mr. Duke for a nonconsent license be automatically forwarded to the Commission for decision.

Commissioner Mary Griffin seconded, and the motion passed (5-0).

TAXICAB DRIVER DISCIPLINARY HEARING: MULATE H. ASRES

Mr. Asres appeared with council Michelle Thompson. Director McQuiston reported that Mr. Asres had received his initial taxicab driver permit in May 2007. He stated that Mr. Asres had disclosed only one moving traffic violation when he renewed his permit in September 2008, which was confirmed by a copy of his driving record that Mr. Asres had obtained from the Department of Safety. The director stated that in mid-November a supervisor at the Traffic School had notified him that Mr. Asres was repeatedly applying to attend the school. He stated that a Traffic Offense Record Query was performed, which disclosed that Mr. Asres had six moving violations within the twelve months preceding his renewal application. The director noted that the ordinance allowed only two. He stated that Mr. Asres' permit had been suspended, pending this hearing, and recommended that the permit be revoked because Mr. Asres did not meet the eligibility requirements.

Ms. Thompson stated that there appeared to be a misconception by drivers that attendance at Traffic School would not result in a conviction. She requested that the Commission place Mr. Asres on probation. **Chair Helen Rogers** stated that the eligibility requirements were specific. Ms. Thompson stated that attendance at Traffic School remedied the traffic citation. **Chair Rogers** stated that six citations was a great many. **Commissioner Mary Griffin** asked about the interpretation of the ordinance. Director McQuiston referred to the report provided by the Traffic Offense Record Query, which showed that Mr. Asres had been to the Defensive Driving Course multiple times, and then had started over again. He stated that the Commission's primary concern in reviewing traffic citations was to ensure that only safe drivers would be eligible for permits. **Vice Chair Duane McGray** stated that based on his record it was apparent that Mr. Asres was not becoming a better driver by attending Traffic School. He moved to revoke the permit. **Commissioner Ed Whitmore** seconded, and the motion passed (5-0).

ANNUAL TAXICABS PUBLIC HEARING

Chair Helen Rogers opened the annual taxicabs public hearing, and requested that companies appear.

Allied Cab/Nashville Cab: Representatives of Taxi USA of Tennessee d/b/a Allied Cab and Nashville Cab appeared. Jim Church provided information on the number of approved permits, by company, since 2000. He introduced company legal representative Gif Thornton and manager Jim Burrow. Mr. Church stated that Taxi USA had fielded six ADA-accessible taxicabs under the two-year incentive program approved by the Commission in April 2007, and presented statistics on monthly wheelchair trips provided by the company from January 2007 through September 2008. He pointed out that 5% of the wheelchair trips provided by the company were non-account trips; and noted that the company intended to add four more ADA-accessible vehicles before the program expired in April 2009. Mr. Thornton stated that the company had not applied to add more permits this year, because the current number of permits issued overall was adequate. He asked the Commission to consider issuing a statement to indicate what it considered to be an appropriate number of permits for the metropolitan area. He stated that such a statement or establishment of a cap would allow the market to better determine the value of each permit. **Chair Helen Rogers** noted that taxi rates in Nashville were relatively high, and asked if the effect of issuing more permits might be to reduce these rates. Mr. Church

responded that the rates were set by ordinance, not by supply and demand. He stated that the company's concerns were whether an excessive number of permits reduced the ability of drivers to make a living, and whether company owners could make good investment decisions. **Vice Chair Duane McGray** asked about the reported numbers of wheelchair trips, and why the total number of trips had declined after February 2007. Mr. Church stated that the company had discontinued one of their accounts at that time, but pointed out that the statistics showed that the company had simultaneously started to build its non-account service to dispatch customers. Director McQuiston stated that this was welcome news, because increasing availability for dispatch customers had been the desired outcome when the incentive program was initiated.

American Music City Taxi: Director McQuiston referred to the Commission's decision at the September 23 meeting, and stated that the company had not yet achieved the minimum number of permits to meet the ten percent rule, but had submitted another request for extension.

Johnny White, co-owner of the company, appeared. He stated that the additional permits approved by the Commission at the 2007 annual taxicab hearing, the slow economy, and competition between companies to lure owner-operators had caused the problem of short permits, and his company was struggling. He stated that the company had lowered the weekly lick by \$15 to try to attract drivers. **Commissioner Jennifer Brundige** asked how much time Mr. White was requesting. He responded that he believed they could meet the requirement by the February meeting. Director McQuiston explained the processes by which permits could be added or deleted. Inspector Lawhorn added that American Music City was short of meeting the minimum requirement by seven vehicles. **Vice Chair Duane McGray** moved to grant an extension until the February 24 meeting, with the understanding that no further extension would be considered. **Commissioner Mary Griffin** seconded, and the motion passed (5-0).

Checker Cab: No representative of Checker Cab appeared.

Diamond Taxi: Roy Gillespie, owner of Diamond Taxi, appeared. He stated that he had some problems over the past year, and therefore had not applied for more permits; but stated that he intended to do so next year.

Commissioner Mary Griffin asked Mr. Gillespie if he had been filing the reports that had been required by the Commission as a condition when he was granted a Certificate at the September meeting. He responded that he had. **Commissioner Griffin** restated the question, and asked if he had been regularly filing the required reports. Mr. Gillespie stated that only one report had been filed: the report on drivers. **Commissioner Griffin** asked Director McQuiston if Mr. Gillespie had been filing the required reports. The director stated that the required reports had not been submitted; the only report that had been received was the drivers report. Mr. Gillespie responded that his drivers were well trained, and didn't need training. Director McQuiston stated that the required reports were not supposed to address drivers training, but the training Mr. Gillespie was to have pursued for himself, in order to become a better manager. **Commissioner Jennifer Brundige** asked Mr. Gillespie if Mr. Thompson was still assisting him; Mr. Gillespie responded that he was. **Commissioner Brundige** noted that Mr. Thompson had mentioned that Mr. Gillespie could go to TSU and other organizations to receive management assistance. She asked Mr. Gillespie what he had done in this regard. Mr. Gillespie stated that he was going to take a course that would start in January. He stated that the only problem he had was that

he had been delinquent in filing reports. He stated that he really didn't have a problem; that he had three degrees, including a B.A. degree in business administration.

Vice Chair Duane McGray stated that in testimony provided at the September hearing Mr. Gillespie's attorney Mr. Thompson had contended that Mr. Gillespie was trying to the best of his ability to comply with the requirements of the Commission, but that he needed additional assistance to manage his business. **Vice Chair McGray** stated that Mr. Gillespie was also to have provided reports to the Commission on his progress. He noted that now Mr. Gillespie was stating that he already knew how to meet the requirements, but that he just did not do so. **Vice Chair McGray** stated that this was not what the Commission had been led to believe at the September meeting, when the explanation for Diamond Taxi's noncompliance had been that Mr. Gillespie did not have the background and training needed to manage his business. Mr. Gillespie responded that he had such a small business that he had been trying to do everything himself, including driving up to 14 hours per day and dispatching; this had caused him to have problems meeting his schedules. **Commissioner Griffin** asked if he was still driving; Mr. Gillespie responded that he had stopped driving a year ago, so that he could better manage his business.

United Cab: Kuldip Singh Mann appeared, representing United Cab. He acknowledged that company owners had responsibilities to the Commission, but that their ability to meet those responsibilities was undermined by the large number of unregulated vehicles for hire operating in the community. He emphasized that something needed to be done to eliminate gypsy cabs and kickbacks to hotel employees by unlicensed operators. He also recommended revision of the taxicab rules.

Chair Helen Rogers asked about the status of the new ordinance being drafted to regulate other passenger vehicles for hire. Director McQuiston responded that it was still being drafted. **Chair Rogers** asked the director to try to get a draft completed by the end of January. She explained to Mr. Singh that the Commission's goal was to bring gypsy cabs and all other passenger vehicles for hire under regulation.

Yellow Cab: No representative of Yellow Cab appeared.

Director McQuiston provided a report on the model years of current taxicabs, as reported by the companies. **Vice Chair McGray** asked Inspector Lawhorn about the status of 1999 model taxicabs in the fleets of Checker Cab and Yellow Cab. Inspector Lawhorn stated that these would have to be replaced by the end of the month.

There were no other comments, and **Chair Rogers** closed the public hearing.

2009 MEETING SCHEDULE

The Commission approved the following meeting schedule for 2009:

January 27

February 24

March 24

April 28

May 26

June 23 (Annual Public Hearing – Emergency Wrecker Zones)

July 28

August 25

September 22

October 27

November 17 (Annual Public Hearing – Taxicab Certificates & Permits)

December 15

OTHER BUSINESS

The Commission acknowledged the retirement of Mr. James Utley from the Commission, and expressed appreciation for his many years of public service.

There was no further business, and the meeting was adjourned.

ATTEST:

APPROVED:

Brian E. McQuiston
Director-Executive Secretary

Helen S. Rogers
Chair